

### REMARKS

The non-final Office Action of September 23, 2010, rejects all pending claims 1, 2, 5-9, 11-13, and 15-21. In this Amendment in Reply, Applicants amend dependent claims 7, 17, and 19. Support for these amendments can be found throughout the specification as originally filed, for example, at page 3, line 20 – page 4, line 9. No new matter is added. Claims 1, 2, 5-9, 11-13, and 15-21 remain pending. Applicants respectfully request reconsideration of all pending claims in view of the remarks below.

#### **Title**

The Office Action indicates that the title is not descriptive. To move prosecution of this case forward and without conceding whether the current title is adequate, Applicants amend the specification to include the new title “Scheduling Concrete and Non-Concrete Resource Requests.” Applicants submit that this title is sufficiently descriptive and respectfully request that the objection be removed on this basis.

#### **Claim Objection**

Claim 7 stands objected to based on alleged informalities. To move prosecution of this case forward and without conceding the merits of this objection, Applicants submit that claim 7 is currently being amended. Applicants respectfully request that the objection to claim 7 be withdrawn on this basis.

#### **Claim Rejections – 35 U.S.C. § 112**

Claims 17-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite. To move prosecution of this case forward and without conceding the merits of this objection, Applicants submit that claims 17 and 19 are currently being amended. The amended claims, as well as their respective dependent claims 18 and 20, are definite under 35 U.S.C. §

112, second paragraph. As such, Applicants respectfully request that the rejections of claims 17-20 under 35 U.S.C. § 112, second paragraph be withdrawn on this basis.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 1, 2, 5-9, 11-13, and 15-21 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,049,776 to Donnelly et al. (“the Donnelly reference”) in a view of Official Notice. Claims 1 and 8 are independent.

Applicants traverse these rejections based on at least the grounds below.

#### The Donnelly reference and Official Notice do not disclose or suggest each recited feature

Contrary to the assertions on pages 4-6 of the Office Action, the Donnelly reference and the asserted Official Notice, when taken alone or in combination, do not fairly disclose or suggest all of the features recited in the independent claims. For example, the Donnelly reference and the Official Notice do not disclose or suggest receiving “a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period . . . wherein due to the first scheduling request the resource has an availability for the requested time period less than one hundred percent,” as recited in independent claims 1 and 8.

In contrast, the portions of the Donnelly reference relied on for this feature relate to searching for available resources within a given time period. *See, e.g.*, Donnelly at 10:22-53; 12:48-63; 27:43-28:15. For example, the Donnelly reference discloses that “[t]he search for resources is performed in accordance with the timeframe, skills required to perform a task, the skill level required, the duration of the task and the number of hours anticipated to perform the task.” *Id.* at 12:51-54. Instead of receiving “a first scheduling request for a resource, the first scheduling request specifying that the resource is to be scheduled for a requested amount of time sometime within a requested time period,” as recited in the independent claims, the Donnelly reference discloses receiving a search query.

Additionally, the Donnelly reference does not disclose or suggest that “due to the first scheduling request the resource has an availability for the requested time period less than one

hundred percent,” as recited in the independent claims (emphasis added). First, the Office Action has ignored the claim language emphasized above in its analysis of the Donnelly reference. *See* Office Action at p. 4 (stating that “the request amount of time being less than a maximum time that the resource is usable [(cite to Donnelly omitted)] and the resource has an availability (usage, capacity, utilization, etc.) less than 100 percent”).

Second, no portion of the Donnelly reference discusses “an availability for the requested time period less than one hundred percent,” as recited in the independent claims. Indeed, Donnelly does not represent availability during a time period as a percentage, but rather as a binary value – either Donnelly’s resource is scheduled during a given period of time or it is not. For example, Donnelly discusses “[a] Calendar file 73 stores the schedule records containing all the calendar entries for scheduled activities. The file contains one record for each date and time period for which an employee is scheduled.” Donnelly at 10:23-26. In another example, Donnelly provides that “[i]f a calendar record does not exist for the date being examined, the employee is available for the entire day. If a calendar record does exist for the date being examined, the begin and end times of the commitment are examined.” *Id.* at 32:63-67. Accordingly, Donnelly fails to disclose or suggest the feature that “an availability for the requested time period less than one hundred percent”.

The Official Notice relates to shortening/lengthening a time period and Applicants address it below. However, the Official Notice does not contend that “an availability for the requested time period less than one hundred percent” is old or well known. As such, the Official Notice does not cure the deficiencies of the Donnelly reference with regard to this feature, and the Examiner did not so contend either.

In another example, the Donnelly reference and the Official Notice do not disclose or suggest receiving “a second scheduling request for the resource that refines the first scheduling request, the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period,” as recited in the independent claims (emphasis added).

The Donnelly reference does not disclose or even contemplate such a refinement request. Instead, the Donnelly reference discusses calendar entry updates in general terms and that tentative calendar entries can be converted to non-tentative entries. For example, Donnelly provides that “the Calendar Maintenance screen is illustrated and is the base point for initiating manual calendar updates.” Donnelly at 16:8-10. In another example, the Donnelly reference discusses “the RMS system can make a schedule commitment tentative and can assign an expiration date. If no action occurs by that date, the commitment expires and the resource is available for other assignments.” *Id.* at 13:8-11. Nowhere does the Donnelly reference disclose or suggest “the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period,” where “the resource has an availability for the requested time period less than one hundred percent,” as recited in the independent claims.

The Official Notice does not cure the deficiencies of the Donnelly reference with regard to this feature.

In a further example, the Donnelly reference and the Official Notice do not disclose or suggest scheduling “a remaining portion of the requested amount of time within the requested time period except within the specific time, wherein scheduling the remaining portion of the requested amount of time causes the availability of the resource for a remaining portion of the requested time period to be greater than zero percent and less than one hundred percent,” as recited in the independent claims.

Contrary to the Office Action's assertions on pages 5-6, discussion in the Donnelly reference with regard to “partial days” and “% available” does not disclose or suggest such a feature. “Partial day” is a term used in the Donnelly reference to indicate that there is a commitment for part of a day. For instance, the following portion of Donnelly explains partial days:

If a calendar record does not exist for the date being examined, the employee is available for the entire day. If a calendar record does exist for the date being examined, the begin and end times of the commitment are examined. For partial days, a day is only

considered to be available if 4 or more contiguous hours are available during the work day (between 8:00 a.m. and 5:00 p.m.).

Donnelly at 32:63-33:3.

The term “% available” is used in the Donnelly reference to describe a field that can be used to search for resources. For instance, Donnelly provides that “[t]he % Available field specifies the minimum percentage of total time that the resource is required during the date range, based on an eight hour day,” *id.* at 28:9-11, and that when the “% available” field is entered, the system checks whether “Total Available Hours/Total Hours Required [for a resource] >=% Available [field].” *Id.* at 34:54-56. Nowhere does the Donnelly reference disclose or suggest scheduling “a remaining portion of the requested amount of time within the requested time period except within the specific time, wherein scheduling the remaining portion of the requested amount of time causes the availability of the resource for a remaining portion of the requested time period to be greater than zero percent and less than one hundred percent,” as recited in the independent claims.

The Official Notice does not cure the deficiencies of the Donnelly reference with regard to this feature.

For at least the foregoing reasons, Applicants submit that the independent claims are patentable over the Donnelly reference and the Official Notice. Applicants respectfully request that the rejections under 35 U.S.C. § 103 of the independent claims 1 and 8, and their dependent claims, be withdrawn.

#### Official Notice

Applicants submit that the Official Notice taken in the Office Action mischaracterizes the features recited in the independent claims 1 and 8. In particular, the Office Action states that “Donnelly et al. does not expressly limit the refining the first request to refinements that only shorten (a portion) the first resource request as claimed” and that “Official notice is taken that updating/refining resource requests such that the update/refinement shortens, lengthens or leaves the duration/length portion of the original (first) resource request is old and very well known.”

Office Action at p. 6. However, the independent claims do not recite “shortens, lengthens or leaves the duration/length portion of the original (first) resource request.”

Instead, the independent claims 1 and 8 recite “the second scheduling request specifying that a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period, the portion of the requested amount of time being less than the requested amount of time.” The claims do not recite or suggest shortening or lengthening the first request. Instead, they recite that “a portion of the requested amount of time is to be scheduled in a specific time slot within the requested time period.”

As such, the Official Notice is based on the Examiner's misunderstanding of the claims, and the Official Notice is moot as not applying to the present subject matter.

Applicants request that the Official Notice be withdrawn and that the recited claim language be given its full weight.

### **Conclusion**

Applicants submit that claims 1-2, 5-9, 11-13, and 15-21 are in condition for allowance, and request that the Examiner issue a notice of allowance.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant : Ehret et al.  
Serial No. : 10/815,131  
Filed : March 31, 2004  
Page : 14 of 14

Attorney's Docket No.: 13906-0180001/2004P00204 US

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: January 18, 2011 \_\_\_\_\_

/j richard soderberg reg. no. 43,352/ \_\_\_\_\_  
J. Richard Soderberg  
Reg. No. 43,352

Customer Number 32864  
Fish & Richardson P.C.  
Telephone: (612) 335-5070  
Facsimile: (877) 769-7945

60676244.doc